

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carlo Vescovi	Team: Squad #14	CCRB Case #: 202002862	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 04/23/2020 5:30 PM	Location of Incident: 3128 Neptune Avenue	Precinct: 60	18 Mo. SOL 10/23/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 04/24/2020 1:06 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 04/24/2020 1:06 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. DT2 Shante Terrell	04424	929243	NARCBBS
4. POF Janice Ying	16201	958183	PSA 1
5. SGT Bilal Ates	03374	934429	NARCBBS
6. DT3 Tearle Connell	01053	932484	NARCBBS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Alfred Davidson	4660	941621	NARCBBS
2. SGT Paul Mallilo	00564	949246	NARCBBS
3. PO Matthew Cameron	16133	957415	PSA 1

Officer(s)	Allegation	Investigator Recommendation
A.SGT Bilal Ates	Abuse: Sergeant Bilal Ates stopped the vehicle in which § 87(2)(b) was an occupant.	
B.SGT Bilal Ates	Abuse: Sergeant Bilal Ates stopped the vehicle in which § 87(2)(b) was an occupant.	
C.SGT Bilal Ates	Abuse: Sergeant Bilal Ates stopped the vehicle in which § 87(2)(b) was an occupant.	
D.SGT Bilal Ates	Abuse: Sergeant Bilal Ates stopped the vehicle in which § 87(2)(b) was an occupant.	
E.SGT Bilal Ates	Force: Sergeant Bilal Ates used physical force against § 87(2)(b)	
F.SGT Bilal Ates	Abuse: Sergeant Bilal Ates damaged § 87(2)(b)'s property.	
G.SGT Bilal Ates	Force: Sergeant Bilal Ates used physical force against § 87(2)(b)	
H.DT2 Shante Terrell	Force: Detective Shante Terrell used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
I.DT3 Tearle Connell	Force: Detective Tearle Connell used physical force against § 87(2)(b)	
J.SGT Bilal Ates	Force: Sergeant Bilal Ates used physical force against § 87(2)(b)	
K. Officers	Force: Officers used physical force against § 87(2)(b)	
L. An officer	Discourtesy: Sergeant Bilal Ates spoke discourteously to § 87(2)(b)	
M.POF Janice Ying	Abuse: Police Officer Janice Ying frisked § 87(2)(b)	
N.POF Janice Ying	Abuse: Police Officer Janice Ying searched § 87(2)(b)	
O.POF Janice Ying	Abuse: Police Officer Janice Ying failed to provide § 87(2)(b) with a business card.	
§ 87(4-b) § 87(2)(g)		

Case Summary

On April 24th, 2020, § 87(2)(b) filed the following complaint with the CCRB via the Call Processing System on behalf of himself, his roommate, § 87(2)(b) taxi driver § 87(2)(b) and § 87(2)(b) another occupant of the taxi.

On April 23rd, 2020, at approximately 5:00pm, § 87(2)(b) and § 87(2)(b) were occupants of a green taxi license no. § 87(2)(b) operated by § 87(2)(b) § 87(2)(b) was previously unknown to § 87(2)(b) and § 87(2)(b) outside the context of the taxi ride. Sergeant Bilal Ates and Detective Paul Mallilo, both of Narcotics Bureau Brooklyn South, stopped § 87(2)(b)'s taxi (**Allegation A-D: Abuse of Authority, § 87(2)(g)**). Sgt. Ates asked § 87(2)(b) to step out of the taxi, and Sgt. Ates then pulled § 87(2)(b) out of the taxi and in doing so allegedly tore § 87(2)(b)'s jacket. (**Allegation E: Force, § 87(2)(g)**, **Allegation F: Abuse of Authority, § 87(2)(g)**).

Around this time, Detective Shante Terrell, Detective Tearle Connell, and Detective Alfred Davidson, also of Narcotics Bureau Brooklyn South, arrived on scene to assist. Police Officer Janice Ying and Police Officer Matthew Cameron, both of PSA 1, observed the vehicle stop while on patrol and also arrived to assist. Sgt. Ates allegedly used a forcible takedown on § 87(2)(b) (**Allegation G: Force, § 87(2)(g)**). Det. Terrell and Det. Connell also allegedly used forcible takedowns on § 87(2)(b) (**Allegation H, Allegation I: Force, § 87(2)(g)**). Sgt. Ates allegedly punched § 87(2)(b) approximately ten times in the face (**Allegation J: Force, § 87(2)(g)**). Between three and four additional officers also punched § 87(2)(b) multiple times (**Allegation K: Force, § 87(2)(g)**). § 87(2)(b) told an officer he was not resisting, and the officer responded, "bullshit" (**Allegation L: Discourtesy, § 87(2)(g)**). PO Ying frisked and searched § 87(2)(b) (**Allegation M, Allegation N: Abuse of Authority, § 87(2)(g)**). PO Ying failed to provide § 87(2)(b) with a business card (**Allegation O: Abuse of Authority, § 87(2)(g)**). § 87(4-b) § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) were handcuffed and removed to the 60th Precinct stationhouse. § 87(2)(b) was released from the 60th Precinct Stationhouse with summonses for an § 87(2)(b)

§ 87(2)(b) (BR 01-02). § 87(2)(b) was released from the 60th Precinct stationhouse with a summons for an open container. § 87(2)(b) [§ 87(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) and § 87(2)(b) were released from the incident location and were not arrested or issued summonses.

Body-worn camera footage (BWC) was received for this incident for PO Cameron and PO Ying, the relevant aspects of which will be discussed below. Sgt. Ates, Det. Mallilo, Det. Terrell, Det. Connell, and Det. Davidson were not equipped with BWCs, as Brooklyn South Narcotics was not assigned BWCs at the time of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Bilal Ates stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Sergeant Bilal Ates stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (C) Abuse of Authority: Sergeant Bilal Ates stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (D) Abuse of Authority: Sergeant Bilal Ates stopped the vehicle in which § 87(2)(b) was an occupant.

The investigation established the following facts. On April 23rd, 2020 at approximately 5:30pm, Sergeant Ates and Det. Mallilo stopped a taxi operated by § 87(2)(b) and in which § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) were occupants, in front of 3128 Neptune Avenue in Brooklyn. § 87(2)(b) and § 87(2)(b) were asked to step out. Sgt. Ates opened § 87(2)(b)'s passenger door and forcibly removed § 87(2)(b) from the vehicle and brought him to the ground.

§ 87(2)(b) testified (BR 03, BR 04) that on the afternoon of April 23rd, 2020, he and § 87(2)(b) were at a friend's house a few blocks away from 3128 Neptune Avenue in Brooklyn. § 87(2)(b) and § 87(2)(b) bought a bottle of Hennessy and had just a "little bit" of the alcohol before sealing it and placing it in a black plastic bag. After a few hours, at approximately 5:30pm, § 87(2)(b) and § 87(2)(b) who was unknown to § 87(2)(b) and § 87(2)(b) hailed a taxi driven by § 87(2)(b) and all three entered the back of the taxi. § 87(2)(b) sat on the rear passenger's side, § 87(2)(b) on the rear driver's side, and § 87(2)(b) in the middle. No one drank during the taxi ride. The bottle of Hennessy, which § 87(2)(b) capped and placed on the floor of the taxi in a black plastic bag, was not visible outside the bag. After a few blocks, an unmarked police vehicle driven by Sgt. Ates signaled with its lights and pulled the taxi over. Det. Mallilo approached the driver's side and Sgt. Ates approached the passenger's side. Det. Mallilo told § 87(2)(b) he was pulled over because he failed to signal. § 87(2)(b) did not witness § 87(2)(b) commit any vehicle infractions prior to the stop.

§ 87(2)(b) consistently testified (BR 06) that he and § 87(2)(b) were on their way home from a friend's house on § 87(2)(b) where they had stayed for 30-40 minutes. § 87(2)(b) purchased a small bottle of Hennessy and drank about half of it. § 87(2)(b) and § 87(2)(b) hailed a taxi with § 87(2)(b). The bottle of Hennessy was in a black bag and was not visible. After a few minutes, Sgt. Ates and Det. Mallilo pulled the taxi over with their siren.

§ 87(2)(b) was unavailable to the investigation (see IAs for contact attempts).

§ 87(2)(b) was reached, but declined to provide a statement or otherwise participate in the investigation (BR 33, 34).

Sgt. Ates testified (BR 07) that he and Det. Mallilo drove down Mermaid Avenue in Brooklyn when they received a 911 dispatch call about a large disorderly group fight near Mermaid Avenue and 23rd Street but could not recall further details. Upon arrival, Sgt. Ates saw multiple marked police vehicles and a crowd of approximately 30-40 people. At the sight of police officers in uniform, the crowd ran off in all directions. Sgt. Ates did not see what if any criminal behavior the crowd was engaged in. Before Sgt. Ates or Det. Mallilo exited the vehicle, Sgt. Ates observed § 87(2)(b) and § 87(2)(b) enter the rear seat of a taxi that had slowed to a stop in front of Sgt. Ates' vehicle, and in which there was already an occupant. § 87(2)(b) held a bottle of Hennessy in his hand, which Sgt. Ates could not recall if it was open. § 87(2)(b) drove away from the location immediately and the tires of taxi made a screeching noise. Sgt. Ates and Det. Mallilo pursued the taxi down Mermaid Avenue and activated the lights of their vehicle and pulled the taxi over. Sgt. Ates pulled the taxi over because he had observed § 87(2)(b) with an open container of liquor, because of the nature of the original 911 call, and because the taxi had left the location hurriedly at a high rate of speed. There were no other reasons for which Sgt. Ates conducted a vehicle stop. During the vehicle stop, Sgt. Ates overheard Det. Mallilo speaking with § 87(2)(b) and § 87(2)(b) stated, "They just jumped in the car, they just jumped in the car."

Det. Mallilo testified (BR 08) that he and Sgt. Mallilo responded to a 911 call regarding a group of males fighting in the street, possibly with weapons, on Mermaid Avenue near 24th Street. Det. Mallilo observed § 87(2)(b) and § 87(2)(b) run down the street. Without hailing it, § 87(2)(b) and § 87(2)(b) entered a green taxi on Mermaid Avenue operated by § 87(2)(b) that was stopped at a red light in front of Det. Mallilo and Sgt. Ates' vehicle. The taxi had not pulled over for § 87(2)(b) and § 87(2)(b). Det. Mallilo could not recall if the taxi's fare light was on. Upon § 87(2)(b) and § 87(2)(b) entering the taxi, the taxi accelerated rapidly. Det. Mallilo was unsure if the taxi's speed was above or below the legal limit but stated that the driver committed an unsafe start by accelerating at a high rate of speed. Det. Mallilo and Sgt. Ates

followed the taxi for approximately eight blocks before activating their lights and sirens and effecting a vehicle stop. The basis of the car stop was § 87(2)(b) and § 87(2)(b) entering a taxi near the scene of a 911 call, and the taxi leaving at a high rate of speed.

As noted, Det. Mallilo and Sgt. Ates were not equipped with BWC at the time of this incident. The Event Information was received for the stop of the taxi and confirmed that two males were placed under arrest (BR 18). However, a subsequent request for the event documents pursuant to the initial disorderly group call returned negative results as the events expired after one year (BR 19).

§ 87(2)(g)

Allegation (E) Force: Sergeant Bilal Ates used physical force against § 87(2)(b)

Allegation (F) Abuse of Authority: Sergeant Bilal Ates damaged § 87(2)(b)'s property.

§ 87(2)(b) testified that after Sgt. Ates stopped the taxi, Det. Mallilo asked § 87(2)(b) to step out of the vehicle, which § 87(2)(b) did. Sgt. Ates walked to the rear passenger side of the taxi, where § 87(2)(b) was seated. Sgt. Ates asked § 87(2)(b) to exit the vehicle and opened the rear passenger's side door. § 87(2)(b) asked Sgt. Ates to take a step back so that he could maintain a six feet distance as per CDC recommendations regarding COVID-19 social distancing. Without further instruction, Sgt. Ates then placed his hands on the lapel area of § 87(2)(b)'s jean jacket. Sgt. Ates pulled § 87(2)(b) out of the vehicle by the jacket, and allegedly ripped § 87(2)(b)'s jacket in the process. § 87(2)(b) sent a photo of his torn jacket to the investigation, which depicted an approximately six-inch-long tear along the right pocket seam (BR 05).

§ 87(2)(b) testified that after stopping the vehicle, Det. Mallilo walked to § 87(2)(b)'s window and Sgt. Ates to § 87(2)(b)'s window. Sgt. Ates asked § 87(2)(b) to step out of the vehicle and § 87(2)(b) agreed. Sgt. Ates opened § 87(2)(b)'s door. Sgt. Ates was so close to § 87(2)(b) that § 87(2)(b) could not exit the vehicle. § 87(2)(b) asked Sgt. Ates to take a step back to maintain a six-foot distance due to concerns over COVID-19. Sgt. Ates reached into the open door of the taxi and grabbed § 87(2)(b) by his arm. Sgt. Ates then pulled § 87(2)(b) out of the car.

Sgt. Ates testified that he opened the rear passenger door and asked § 87(2)(b) to step out of the vehicle. § 87(2)(b) stated, in sum and substance, "Go fuck yourself." Sgt. Ates could smell that § 87(2)(b) had alcohol on his breath. Sgt. Ates asked § 87(2)(b) a second and third time to step out of the vehicle, and § 87(2)(b) still refused to comply. At no point did § 87(2)(b) ask Sgt. Ates to step back due to social distancing concerns. Sgt. Ates then reached into the rear seat of the taxi with both hands and grabbed § 87(2)(b) by some part of his upper body, Sgt. Ates believed it to be § 87(2)(b)'s arms, and pulled him out of the vehicle. As soon as Sgt. Ates did this, § 87(2)(b) fought by tensing his body and pushing Sgt. Ates' hands away from him. Sgt. Ates' acknowledged that he may have held onto a piece of § 87(2)(b)'s jacket as he pulled him from the vehicle, but to his knowledge, he did not rip § 87(2)(b)'s jacket.

Det. Mallilo testified that he approached § 87(2)(b) in the driver's seat, whereupon he also

observed § 87(2)(b) sitting behind the driver's seat. § 87(2)(b) stated that two of the passengers were not his. Det. Mallilo observed an open Hennessy bottle on the floor of the back seat area between § 87(2)(b) and § 87(2)(b). Det. Mallilo believed § 87(2)(b) and § 87(2)(b) had been drinking because he could smell liquor on them and because they had cups near the Hennessy bottle. Sgt. Ates spoke to § 87(2)(b) on the opposite side of the vehicle. Det. Mallilo heard Sgt. Ates ask § 87(2)(b) for his ID and § 87(2)(b) refused to provide it. Sgt. Mallilo did not recall how many times Sgt. Ates asked § 87(2)(b) for ID. Det. Mallilo then noticed a scuffle but remained on the driver side and placed § 87(2)(b) in handcuffs after she exited from the vehicle. Det. Mallilo did not see Sgt. Ates grab and pull § 87(2)(b) out of the taxi or tear § 87(2)(b)'s jacket.

As discussed, neither Sgt. Ates nor Det. Mallilo were equipped with BWC at the time of this incident.

A Threat, Resistance, or Injury report Worksheet prepared by Sgt. Ates (BR 16-17) stated that § 87(2)(b) refused to provide ID, refused to step out of the vehicle, and was removed after trying to sit back into the vehicle and documented that a forcible takedown was used.

§ 87(2)(b) and § 87(2)(b) both testified that Sgt. Ates asked § 87(2)(b) to step out of the vehicle once, at which point § 87(2)(b) requested that Sgt. Ates step back for COVID safety precautions. § 87(2)(b) testified that without further instruction, Sgt. Ates forcibly pulled § 87(2)(b) from the vehicle and tore his jacket in the process. Sgt. Ates testified that he pulled § 87(2)(b) from the vehicle because he refused to step out after being ordered three times to do so, and pushed Sgt. Ates' hands away when Sgt. Ates' tried to grab him. § 87(2)(g)

§ 87(2)(b) provided the investigation with a photograph of his jacket which was torn along the right pocket seam. § 87(2)(g)

Allegation (G) Force: Sergeant Bilal Ates used physical force against § 87(2)(b)

Allegation (H) Force: Detective Shante Terrell used physical force against § 87(2)(b)

Allegation (I) Force: Detective Tearle Connell used physical force against § 87(2)(b)

Allegation (J) Force: Sergeant Bilal Ates used physical force against § 87(2)(b)

Allegation (K) Force: Officers used physical force against § 87(2)(b)

§ 87(2)(b) testified that after Sgt. Ates pulled him from the rear seat of the taxi, he landed outside the vehicle on his feet, at which point Sgt. Ates pushed him onto the ground. § 87(2)(b) landed stomach-first with his hands at his sides. At this point, additional officers came over to § 87(2)(b) and restricted his movement, although § 87(2)(b) could not remember exactly how. § 87(2)(b) remained on his stomach with his hands near his body by his sides. Sgt. Ates stated, "Stop resisting," and allegedly punched § 87(2)(b) in the head with his fist. § 87(2)(b) estimated that Sgt. Ates struck him in the head about ten times, while repeatedly stating, "Stop resisting" while another unidentified officer held § 87(2)(b)'s hands. § 87(2)(b) further alleged at least four officers struck him in the head with their fists for 30-40 seconds while he laid stomach down. After 30-40 seconds, Sgt. Ates lifted § 87(2)(b) to his feet and handcuffed him. As a result of this force, § 87(2)(b) received a laceration on his ear and swelling and bruising on his right cheek and below

his eye. § 87(2)(b) sent images of these injuries to the investigation which depicted swelling on both his left and right cheek and below his eyes on both sides (BR 05). § 87(2)(b) did not request medical attention from any NYPD officers.

§ 87(2)(b) testified that Sgt. Ates used both hands to push § 87(2)(b) in the chest onto the ground after he was pulled from the taxi. § 87(2)(b) landed on his stomach with his hands by his side. Seeing the commotion on the right side of the vehicle, Det. Mallilo told § 87(2)(b) and § 87(2)(b) to wait before exiting the vehicle and went to the passenger's side of the taxi. § 87(2)(b) screamed, "I'm not resisting, I'm not resisting." § 87(2)(b) stated that both Sgt. Ates and Det. Mallilo held § 87(2)(b) s down by his arms, but § 87(2)(b) could not see what was happening in more detail. Additional officers arrived on scene, identified as Det. Davidson, Det. Connell, Det. Terrell, PO Ying, and PO Cameron. Sgt. Ates allegedly struck § 87(2)(b) in the head with a closed fist, near § 87(2)(b) s face, while he laid on the ground.

Sgt. Ates testified that after the initial vehicle stop, Det. Connell and other members of Brooklyn Narcotics arrived to assist. As soon as Sgt. Ates touched § 87(2)(b) to remove him from the vehicle, § 87(2)(b) tensed his body and tried to push Sgt. Ates' hands away from him. Once § 87(2)(b) was out of the taxi, Sgt. Ates used a forcible takedown to pull § 87(2)(b) to the ground. Sgt. Ates and Det. Connell attempted to put handcuffs on § 87(2)(b) but he screamed and kicked his legs. Sgt. Ates did not use a hand strike as he subdued or handcuffed § 87(2)(b). Sgt. Ates did not observe any officers use a hand strike during this incident. As noted above, Sgt. Ates' TRI for this incident (BR 16-17) stated that Sgt. Ates used a forcible takedown to overcome active resistance. The TRI report did not document the use of any handstrikes.

Det. Mallilo testified that he remained on the driver's side of the vehicle and did not himself observe a forcible takedown. Det. Mallilo understood that § 87(2)(b) had been forcibly taken down but did not see the specific motions used. Det. Mallilo did not witness any officer punch § 87(2)(b) in the face.

Det. Connell, identified as a subject because of his TRI, testified (BR 09) that he and Det. Terrell arrived on scene but did not otherwise know the context of the vehicle stop. Det. Connell observed Sgt. Ates attempt to get § 87(2)(b) s hands behind his back as § 87(2)(b) leaned against the taxi and flailed his arms around to avoid being handcuffed. Det. Connell grabbed § 87(2)(b) s hands and held them behind his back. Det. Connell did not use a handstrike against § 87(2)(b) nor did he observe any other officers present use a handstrike against § 87(2)(b). Det. Connell did not use a forcible takedown during this arrest, nor did he observe any other officers use a forcible takedown. Det. Connell could not recall if § 87(2)(b) was subject to a forcible takedown or was placed on the ground during the incident. During his CCRB interview, Det. Connell was shown his TRI pursuant to this incident which documented only that he used a forcible takedown to overcome active resistance (BR 10). Det. Connell stated that he did fill out a TRI, but could not recall if he used a forcible takedown.

Det. Terrell, also identified as a subject due to his TRI, testified (BR 11) that upon arriving on scene, he walked to the driver's seat where he had a brief conversation with § 87(2)(b). At this point, Det. Terrell heard a commotion on the passenger's side of the taxi. Det. Terrell walked back to the passenger's side of the vehicle and saw officers attempting to handcuff § 87(2)(b) and § 87(2)(b). Det. Terrell could not recall if § 87(2)(b) was resisting arrest or what physical interactions § 87(2)(b) had with any officer. Officers grabbed § 87(2)(b) s arms and tried to get them behind his back. Det. Terrell could not recall if any officers used a forcible takedown against § 87(2)(b). Det. Terrell did not use handstrike against § 87(2)(b) nor did he observe any other officers on scene use a handstrike against § 87(2)(b). During his CCRB interview, Det. Terrell was shown his TRI which documented only that he used a forcible takedown to overcome active resistance. (BR 12). Det. Terrell did not recall filling out a TRI or using any forcible takedown.

Det. Davidson testified (BR 13) he did not remember any officers on scene using force to conduct the arrest of § 87(2)(b). Det. Davidson did not observe an officer take § 87(2)(b) to the ground with a forcible takedown. Det. Davidson did not use a handstrike against § 87(2)(b) nor

did he observe any other officers using a handstrike against § 87(2)(b)

PO Cameron testified (BR 14) that he observed the vehicle stop from across the street, where he was stationed with PO Ying. Upon arrival, PO Cameron observed § 87(2)(b) already on the ground, with several officers attempting to handcuff him. § 87(2)(b) resisted by moving his arms and pushing away from the officers. PO Cameron did not punch § 87(2)(b) in the head, nor did he observe another officer do so.

Like Sgt. Ates and Det. Mallilo, Det. Terrell, Det. Connell, and Det. Davidson were not equipped with BWC at the time of this incident. PO Cameron's BWC (BR 15) captures this aspect of the incident upon PO Cameron's arrival. At 0:10 on the player timestamp, PO Cameron walks to the passenger's side of the taxi. § 87(2)(b) is pressed into the ground chest first and Sgt. Ates is captured near § 87(2)(b)'s upper torso. At least two officers are pulling § 87(2)(b)'s hands behind his back to handcuff him. An officer states, "Stop resisting," § 87(2)(b) states, "I'm not." Because PO Cameron's BWC is at close range, the video is blurry and blacked out at several points. From 00:27 to 00:33 on the player timestamp, § 87(2)(b) is captured on his stomach with his right arm behind his back. At 00:34, PO Cameron reaches out and grabs § 87(2)(b)'s right arm, which is uncuffed. From 00:34 to 00:40, PO Cameron and at least one other officer grab § 87(2)(b)'s hands and successfully handcuff him. The footage does not capture any officer punching § 87(2)(b) in the head. The video does not capture § 87(2)(b) kicking his legs or screaming.

§ 87(2)(b) and § 87(2)(b)'s testimonies are consistent in that Sgt. Ates pushed § 87(2)(b) in the chest onto the ground after pulling him from a seated position. Consistent with his TRI, Sgt. Ates testified that he used a forcible takedown to bring § 87(2)(b) to the ground because § 87(2)(b) tensed his body and pushed Sgt. Ates' hands away as Sgt. Ates pulled him from the taxi. PO Cameron and Det. Connell both observed § 87(2)(b) moving his arms to avoid being handcuffed. However, PO Cameron did not recall or observe § 87(2)(b)'s initial takedown, and Det. Connell testified that § 87(2)(b) was standing up during this portion of the incident. § 87(2)(g)

§ 87(2)(b) alleged that there was a number of officers who were involved in restraining him after Sgt. Ates forcibly took him to the ground. Both Det. Terrell and Det. Connell prepared TRI's stating that § 87(2)(b) was actively resisting and documenting that they both used force to bring § 87(2)(b) to the ground. However, neither officer had memory of using a forcible takedown against § 87(2)(b). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) testified that, in addition to Sgt. Ates, at least four additional officers punched him in the head repeatedly for 30-40 seconds. Det. Connell, Det. Terrell, Det. Davidson, and PO Cameron testified that they did not use handstrikes on § 87(2)(b) nor did they observe any other officers use a handstrike. Sgt. Ates, Det. Connell, and Det. Terrell's TRI's do not document the use of any handstrikes. § 87(2)(g)

Allegation (L) Discourtesy: An officer spoke discourteously to § 87(2)(b)

At 0:45 on the player timestamp of PO Cameron's BWC, an unknown officer states

offscreen, "Why you fighting?" § 87(2)(b) states, "I'm not." An officer states, "Bullshit." At this point in the incident, Sgt. Ates, Det. Mallilo, Det. Connell, and Det. Davidson are on the passenger's side of the taxi near § 87(2)(b) while Det. Terrell and PO Ying are standing with § 87(2)(b) and § 87(2)(b) respectively.

Sgt. Ates testified that he did not use the profanity captured in the footage. Sgt. Ates was not able to identify the officer who made that remark. Det. Mallilo did not know who made the remark and stated he did not make it himself. Det. Connell testified he did not recognize the voice stating, "bullshit," and that he did not use this discourtesy himself. Det. Davidson did not recall an officer saying, "bullshit," nor did he use this discourtesy himself. While the profanity is captured on PO Cameron's BWC, it is evident from the direction of the remark that PO Cameron did not himself make the statement.

§ 87(2)(g)

Allegation M: Police Officer Janice Ying frisked § 87(2)(b)

Allegation N: Police Officer Janice Ying searched § 87(2)(b)

Allegation O: Police Officer Janice Ying failed to provide § 87(2)(b) with a business card.

PO Ying testified (BR 20) that at the time of the incident, she and PO Cameron were stationed directly across the street from where Sgt. Ates and Det. Mallilo stopped the taxi containing § 87(2)(b) and § 87(2)(b). PO Ying arrived on scene to assist, and § 87(2)(b) was already in handcuffs. PO Ying did not know if § 87(2)(b) was under arrest. PO Ying patted § 87(2)(b) down on her pockets and subsequently searched all of § 87(2)(b)'s pockets in her coat and pants. PO Ying did not speak with any officers on scene about the vehicle stop or infractions prior to searching § 87(2)(b). PO Ying could not recall if any officers instructed her to search § 87(2)(b). PO Ying testified she searched § 87(2)(b) for PO Ying's safety and for § 87(2)(b)'s safety. There were no other reasons for which PO Ying searched § 87(2)(b) at that point. PO Ying did not believe that § 87(2)(b) was armed. After PO Ying searched § 87(2)(b), a police officer on scene instructed her to uncuff § 87(2)(b) and PO Ying did so. PO Ying received no further instruction and did not know why § 87(2)(b) was uncuffed at that point. PO Ying did not offer § 87(2)(b) a business card, though she testified that a business card was required to be given to § 87(2)(b).

Sgt. Ates testified that at some point after the vehicle stop, an officer asked § 87(2)(b) to step out of the vehicle and she complied. § 87(2)(b) was not ever considered under arrest and Sgt. Ates understood § 87(2)(b) to be the original passenger of the taxi when § 87(2)(b) and § 87(2)(b) had entered it. Sgt. Ates had no independent recollection of PO Ying searching § 87(2)(b). Sgt. Ates did not order any officers on scene to search § 87(2)(b).

PO Ying's BWC (BR 37) begins with her already on scene, standing with and holding § 87(2)(b) by the arm. At 00:41, PO Ying reaches her arm into § 87(2)(b)'s left jacket pocket and removes personal items. From 00:51-01:12 on the player timestamp, PO Ying reaches into § 87(2)(b)'s right jacket pocket six times and removes unidentified objects. At 01:16, PO Ying zips open § 87(2)(b)'s jacket and frisks her chest area. From 01:29-02:19, PO Ying lifts up § 87(2)(b)'s jacket and reaches into both of § 87(2)(b)'s pants pockets and at 02:21, PO Ying briefly frisks § 87(2)(b)'s legs.

Per *People v. De Bour*, 40 N.Y.2d 210 [1976], (BR 21), an officer may forcibly stop and detain a person if the officer has reasonable suspicion that the person has committed, is committing or is about to commit a felony or misdemeanor. An officer may frisk the individual if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed. An officer must have probable cause to arrest an individual in order to search them.

Per Administrative Code 14-174 (BR 32), at the conclusion of any frisk and searches of

person that do not result in summons or arrest, an officer shall offer a business card to such person. Per Patrol Guide Procedure 209-03 (BR 22), a business card is to be offered for any frisk or search of persons or property in the absence of an arrest or summons.

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Civilian and Subject Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (BR 24).
- This is the first complaint to which § 87(2)(b) has been a party (BR 25).
- This is the first complaint to which § 87(2)(b) has been a party (BR 26).
- This is the first complaint to which § 87(2)(b) has been a party (BR 36).
- Sgt. Ates has been a member of service for 17 years and has been a subject in 22 complaints CCRB complaints and 62 allegations, of which one was substantiated:
 - 200704116 involved a substantiated allegation of entry of premises against Sgt. Ates. The Board recommended Charges and the NYPD imposed Instruction.
 - § 87(2)(g)
- PO Ying has been a member of service for six years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- Det. Connell has been a member of service for 18 years and has been a subject in 20 CCRB complaints and 47 allegations, none of which have been substantiated. § 87(2)(g)
- Det. Terrell has been a member of service for twenty years and has been named a subject in 12 CCRB complaints and 35 allegations, of which seven were substantiated.
 - 201003780 involved substantiated allegations of entry of premises, search of person, and a stop of person against Det. Terrell. The Board recommended Charges and the NYPD imposed Instruction.
 - 201500715 involved substantiated allegations of gun pointed, discourtesy word, and a vehicle stop and vehicle search against Det. Terrell. The Board recommended Command Discipline B and the NYPD imposed Command Discipline B.

- § 87(2)(g) [REDACTED]

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming assault, battery, false arrest, malicious prosecution, and unlawful imprisonment, and seeking fifty thousand dollars as redress (BR 27). A 50H hearing was held on § 87(2)(b) [REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

Squad: 14

Investigator:	C.V.	Inv. Carlo Vescovi	12/22/21
	Signature	Print Title & Name	Date

Squad Leader:	Cassandra Fenkel	IM Cassandra Fenkel	12/23/2021
	Signature	Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date